

**CITY OF WEST DES MOINES
BOARD OF ADJUSTMENT COMMUNICATION**

Meeting Date: October 16, 2013

Item: Furry Friends Exercise Area, 1209 Grand Avenue – Front yard variance for fenced exercise area – Furry Friends Refuge – VAR-2013-004

Requested Action: Approval of a Variance request

Case Advisor: Linda Schemmel, AIA 

Applicant's Request: Britt Gagne with Furry Friends Refuge is requesting approval of a Variance to the front Yard Setback to allow the placement of a 420 square foot fenced exercise area for the animal shelter located at 1209 Grand Avenue.

History: There are two buildings located on the site (1211 and 1209 Grand Avenue) that were constructed in the late 1950s and late 1960s. The buildings were occupied by office users and were vacant for several years in the late 2000s. In 2010, Furry Friends Refuge pursued ownership of the building and on November 29, 2010, the City Council approved a Comprehensive Plan land use amendment and rezoning of the property from Office (OF) to Neighborhood Commercial (NC) (CPA-2010-004/ZC-2010-008). On December 1, 2010, the Board of Adjustment granted the Applicant's request for a Permitted Conditional Use Permit to an animal rescue, adoption center, and humane society on the property (PC-2010-009). As part of that PC permit request, a fenced exercise yard was approved for the 1211 Grand Avenue Building. The current request is for a fenced exercise yard at 1209 Grand Avenue and is also the subject of a Permitted Conditional Use Permit request (PC-2013-004) scheduled for this same meeting.

City Council Subcommittee: This item was not presented to the Development and Planning City Council Subcommittee.

Staff Review and Comment: This request was distributed to other City departments and other agencies for their review and comment. There are no outstanding issues. Staff would summarize the following key points of interest:

- *Front Yard Setback:* The zoning for this property is Neighborhood Commercial, requiring a 45 foot front yard setback. Fences over 4 feet high are not allowed within the front yard setback. A six foot fence is required for the exercise yard to prevent dogs from jumping the fence and to eliminate visual distractions that encourage barking. In the situation where additional right-of-way is needed to meet Comprehensive Plan requirements, setbacks for new structures are measured from the future right-of-way line. The right of way requirements for Grand Avenue will reduce the current front yard by 27 feet; resulting in a front yard setback for this property located behind the existing building, making it impossible to connect a 6 foot fence to the building without some type of variance.
- *Variance depth:* The Applicant is proposing a 420 square foot exercise area which is slightly over animal welfare recommendations for the minimum exercise area. The requested fenced area will require a 35 foot variance from the required 45 foot front yard setback (the result is a 10 foot setback from the ultimate right-of-way). This will still place the fenced area behind the front face of the building and will not block the view angle for the adjacent driveway. This will also allow the majority of the exercise yard to be located between the existing buildings to aid in buffering any noise.

Variance Findings: Title II of the City Codes discusses the variance procedure. All five (5) conditions must be met in order to grant a variance. Based upon a review of the submitted variance request, staff has made the following findings on the proposed project:

1. That the proposed development or use is consistent with the West Des Moines Comprehensive Plan and any applicable subarea plans. *The proposed development/use is consistent with the West Des Moines comprehensive plan.*
2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or locations, which do not generally apply to comparable properties in the same vicinity and zones. *The future right-of-way needs along Grand Avenue and the existing developed condition of the site impact the buildable area of the site.*
3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest. *The hardship is created by the existing developed condition of the site and the future right-of-way needs of Grand Avenue*
4. That there have been no changes in the character of the site or its surroundings which detrimentally affect the environment. *No changes to the area have occurred. The proposed development will not detrimentally affect the environment.*
5. That the granting of such variance does not, under the circumstances and conditions applied in this particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements. *The granting of the variance would not adversely affect the health or safety of persons, would not be materially detrimental to the public welfare and would not be injurious to nearby properties or improvements.*

Noticing Information: On October 4, 2013, notice of the October 16, 2013 Board of Adjustment Public Hearing on this project was published in the Des Moines Register Community Section. Notice of this public hearing was also mailed to all surrounding property owners within 370 feet of the subject property on October 1, 2013.

Staff Recommendation And Conditions Of Approval: Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan and the findings necessary for approval, staff recommends the Board of Adjustment adopt a resolution for approval of a Variance request for a front yard variance for fenced exercise area, subject to the applicant meeting all City Code requirements.

Property Owner: Furry Friends Refuge
Britt Gagne
1211 Grand Avenue
West Des Moines, Iowa 50265

Applicant(s): Same

Applicant's Representatives:
Britt Gagne, Director
Furry Friends Refuge
1211 Grand Avenue
West Des Moines, Iowa 50265
bgagne@furryfriendsrefuge.org

SITE DETAILS

Comprehensive Plan Designation:	Neighborhood Commercial
Existing Zoning Designation:	Neighborhood Commercial
Proposed Zoning Designation:	No Change
Existing Land Use:	Furry Friends Refuge

Surrounding Land Uses:

North:	Comprehensive Plan Designation:	Office
	Existing Zoning Designation:	Office (OF)
	Existing Land Use:	CK International office building
South:	Comprehensive Plan Designation:	Neighborhood Commercial
	Existing Zoning Designation:	Neighborhood Commercial
	Existing Land Use:	Dahl's Grocery Store
East:	Comprehensive Plan Designation:	Office
	Existing Zoning Designation:	Office (OF)
	Existing Land Use:	CK International office building
West:	Comprehensive Plan Designation:	Neighborhood Commercial
	Existing Zoning Designation:	Neighborhood Commercial
	Existing Land Use:	Family Pet Veterinary Clinic

Total Land Area: .413 acres

ATTACHMENTS:

Attachment A	-	Board of Adjustment Resolution
Attachment B	-	Location Map
Attachment C	-	Site Plan

ATTACHMENT A

Prepared by: L. Schemmel, West Des Moines Development Services PO Box 65320 West Des Moines IA 50265-0320 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320

RESOLUTION

A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, APPROVING THE VARIANCE REQUEST (VAR-2013-004) TO VARY THE FRONT YARD SETBACK FROM 45 FEET TO 10 FEET TO ALLOW THE CONSTRUCTION OF A 420 SQUARE FOOT FENCED EXERCISE YARD FOR 1209 GRAND AVENUE

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Furry Friends Refuge, has requested approval of variance from Chapter 9, Section 7-4, Minimum Setbacks, for construction of a fenced exercise yard for 1209 Grand Avenue;

Legal Description of Property

LOT 18, CLOVER HILLS PLAT 2, AN OFFICIAL PLAT CITY OF WEST DES MOINES, POLK COUNTY, IOWA. CONTAINING .413 ACRES MORE OR LESS.

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on October 16, 2013, the Board of Adjustment held a duly-noticed public hearing to consider the application for a variance (VAR-2013-004);

NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings, for approval, in the staff report, dated October 16, 2013, or as amended orally at the Board of Adjustment hearing of October 16, 2013, including any conditions of approval in Exhibit A are adopted.

SECTION 2. A 35 foot variance to the required 45 foot front yard setback is hereby granted.

PASSED AND ADOPTED on October 16, 2013.

Jennifer Drake, Chairperson
Board of Adjustment

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on October 16, 2013, by the following vote:

AYES:
NAYS:
ABSTAIN:
ABSENT:

ATTEST:

Recording Secretary

ATTACHMENT B



**Furry Friends Refuge
Location Map**

0 20 40 80 120 160 Feet



Furry Friends Refuge Permitted Conditional Use Permit

Legal Description:
LOT 16, CLOVER HILLS PLAT 2, AN OFFICIAL PLAT,
CITY OF WEST DES MOINES, POLK COUNTY, IOWA
CONTAINING .413 ACRES MORE OR LESS

Property Owner:
Furry Friends Refuge
KC Holdings, LLC
2030 NW 72nd St
Clive, IA 50325

Property Address: 1200 and 1211 Grant Ave
Existing Comprehensive Plan: Office
Proposed Comprehensive Plan: Neighborhood Commercial

Existing Zoning: Office (OF-1)
Proposed Zoning: Neighborhood Commercial (NC)

Parking
Required: 1 space per 225 sq ft - 497/225 = 23 spaces
Proposed: 17

Open Space
Required: 17,950 sq ft x 25% = 4,487 sq ft
Existing: 4,887 sq ft or 25.9%
Proposed: 5,755 sq ft or 32%

Impervious Surface
Existing: 13,000 sq ft or 55.6%
Proposed: 9,147 sq ft or 30.6%

All signing shall conform to the Manual on Uniform Traffic Control Devices (Federal Administration, 2009 Edition)

The contractor will be responsible for compliance with the West Des Moines Water Works and City cross connection disinfectant contact provision.

DATE OF SUBMISSION:

OCTOBER 9, 2013

